Volume 23 | Number 4 Article 2

2-17-2012

Cases, Regulations and Statutes

Robert P. Achenbach Jr
Iowa State University

CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

FEDERAL FARM PROGRAMS

FARM AND RANCH LANDS PROTECTION PROGRAM. The CCC has adopted amendments to final regulations amending the governing regulations for the Farm and Ranch Lands Protection Program as amended by the 2008 Farm Bill. **77 Fed. Reg. 6941 (Feb. 10, 2012)**.

ORGANIC FOOD. The National Organic Program (NOP) has announced the availability of a draft guidance document intended for use by accredited certifying agents, certified operations and non-certified handlers of certified organic products, entitled *Handling Bulk, Unpackaged Organic Products* (NOP 5031). The draft guidance document is intended to inform the public of NOP's current thinking on this topic and the NOP is seeking comments on this draft guidance document. Once finalized, this guidance document will be available from the NOP through "*The Program Handbook: Guidance and Instructions for Accredited Certifying Agents (ACAs) and Certified Operations*." This handbook provides those who own, manage, or certify organic operations with guidance and instructions that can assist them in complying with the NOP regulations. The current edition of the *Program Handbook* is available online at http://www.ams.usda.gov/nop or in print upon request. **77 Fed. Reg. 5415 (Feb. 3, 2012)**.

The AMS has issued a proposed rule which would amend the USDA National List of Allowed and Prohibited Substances (National List) to address a recommendation submitted to the Secretary of Agriculture by the National Organic Standards Board (NOSB) on April 29, 2010. Consistent with the recommendation from the NOSB, this proposed rule would revise the annotation for one substance on the National List, methionine, to reduce the maximum levels currently allowed in organic poultry production after October 1, 2012. This proposed rule would permit the use of synthetic methionine at the following maximum levels per ton of feed after October 1, 2012: laying and broiler chickens--2 pounds; turkeys and all other poultry--3 pounds. This action also proposes to correct the Chemical Abstract Service (CAS) numbers for the currently allowable forms of synthetic methionine and seeks comments on these changes. **77 Fed. Reg. 5717 (Feb. 6, 2012)**.

FEDERAL ESTATE AND GIFT TAXATION

GENERATION SKIPPING TRANSFERS. The taxpayer had created an irrevocable trust prior to September 25, 1985 which held partnership interests and marketable securities. The taxpayer obtained a state court order splitting the trust into two trusts, one holding the partnership interests and one holding the marketable securities. The beneficiaries' shares of the two trust were identical to their shares of the original trust. The IRS ruled that the division of the trust into two trusts did not subject the trusts to GSTT. **Ltr. Rul. 201205001, Oct. 21, 2011**.

PENALTY. The taxpayer filed a gift tax return for gifts of three parcels of real property. The IRS assessed additional gift tax based on an increase in the value of the properties and assessed a fraud penalty and interest for undervaluation of the properties. The taxpayer sought summary judgment on the issue of the fraud penalty, arguing that the IRS had not raised sufficient evidence of any intent to evade payment of gift tax. The IRS pointed to three factors which supported the fraud penalty: the undervaluation itself, the assessment by the county of values in excess of the ones used by the taxpayer, and contracts for sale of the properties at prices higher than the values used to report the tax. The court acknowledged that the undervaluation alone might not be enough to prove fraud but held that a jury could still find that the taxpayer undervalued the properties with the intent to evade taxes. The court also held that a jury could find fraud from the evidence that the taxpayer had received higher tax valuation assessments from the county and that the taxpayer acknowledged those higher valuations when the taxpayer did not challenge those assessments. Finally, the court held that the prices in the contracts of sale, although not completed, were sufficient evidence that the taxpayer had knowledge that the properties had higher values than declared, sufficient to show intent to evade taxes. The court held that summary judgment at this point was not proper. **Gaughen v. United States, 2012-1 U.S. Tax Cas. (CCH) ¶ 60,637 (M.D. Penn. 2012)**.

RETURN. The decedent died in 2003 and the executor hired an attorney to handle the completion and filing of the federal estate tax. The evidence showed that the attorney failed to file the estate tax return or pay the estate tax due to mental and physical illness. However, the court held that the estate's duty to file a timely return and timely pay the estate tax could not be delegated to another person; therefore, the disability of the attorney could not excuse the estate from the failure to file penalty or failure to pay penalty. **Freeman v. United States, 2012-1 U.S. Tax Cas. (CCH) ¶ 60,636 (E.D. Penn. 2012)**.

FEDERAL INCOME TAXATION

CHARITABLE DEDUCTION. The taxpayers purchased a residential property which was in habitable condition but in need of repairs. The taxpayers decided to replace the house and donated the house to the local fire department for burning in a training exercise. The taxpayer claimed a charitable deduction for the

appraised value of the house. The IRS argued that the taxpayers actually received more in value for the demolition services than the house was worth as donated. The transfer of the house was solely for the purpose of burning and the fire department was not allowed to use or otherwise transfer the property. The court upheld the IRS disallowance but refused to assess an accuracy-related penalty because the taxpayers acted reasonably and in good faith, maintained adequate records and complied with all reporting requirements. The appellate court affirmed. **Rolfs v. Comm'r, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,186 (7th Cir. 2012), *aff'g*, 135 T.C. 471 (2010)**.

DEPENDENTS. The taxpayer was not married but had a child with a former partner. After the couple separated, they executed a mediation agreement which provided that the other partner would have primary custody of the child and would provide 80 percent of the care for the child. The child lived most of the time with the other parent. Both parents claimed the dependency deduction, child tax credit and earned income credit for the child. The taxpayer filed under the head of household status. The IRS denied the filing status and all deductions and credits for the child. The court held that the child wa snot a qualifying child of the taxpayer because the child lived most of the time with the custodial parent and was not a qualifying relative because the taxpayer did not provide more than half of the support for the child. Because the child did not qualify as a dependent, the taxpayer could not use the head of household filing status. Finally, the custodial parent had not executed and signed a Form 8332, *Release of Claim to Exemption for Child of Divorced or Separated Parents*; therefore, the taxpayer was not eligible for the dependency deduction or child tax credits. **Philemond v. Comm'r, T.C. Memo. 2012-29**.

DEPRECIATION. The taxpayer, an LLC, was formed to develop wind power generation properties, including wind turbines, electrical gathering and transmission facilities and electrical substations. Although the wind turbines would be in place and operable in one tax year, the other facilities may not allow full capacity electricity generation for another year or so. The IRS ruled that the wind turbines would be considered placed in service in the year in which the turbines were fully operable and capable of producing electricity, even though the other facilities and other circumstances might prevent full generation and transmission of the electricity. **Ltr. Rul. 201205005, Nov. 3, 2011**.

FIRST TIME HOMEBUYER CREDIT. The taxpayers had owned a residence since 1974 and placed that house for sale in February 2006. Although the taxpayers essentially lived with the wife's parents, they continued to list the old address on drivers' licenses and income tax returns and occasionally used the old home for personal purposes. The house was sold on April 7, 2007 and the taxpayers rented an apartment until they purchased a new residence on July 28, 2009. The taxpayers claimed the first time homebuyer's credit for the purchase of the new residence. The taxpayers argued that they were eligible for the credit because they ceased using the old house as a residence more than three years before they purchased the new one. The court held that the first house remained the taxpayers' residence until it was sold because the taxpayers' continued to identify the house as their residence on public documents, used the house as their mailing address and did not pay rent for their use of the parent's house. **Foster v. Comm'r, 138 T.C. No. 4 (2012)**.

The IRS has a tool to help taxpayers who have to repay their First-Time Homebuyer Credit. Reminder letters will no longer be mailed to taxpayers who have to repay the credit but taxpayers can now use an online lookup tool on the IRS website to check their repayment obligation. The following four tips will help look up information on the First-Time Homebuyer Credit: (1) *Who needs to repay the credit?* If a taxpayer bought a home in 2008 and claimed the First-Time Homebuyer Credit, the credit is similar to a no-interest loan and must be repaid in 15 equal annual installments that began with your 2010 return. Also, anyone who sold their home, or stopped using it as their main home, may have to repay the entire credit whether their home was purchased in 2008, 2009 or 2010. (2) *Information needed to access the tool* The First-Time Homebuyer Credit Tool will provide critical account information to help taxpayers report their repayment obligation on their tax return. To access the tool taxpayers will need: their Social Security number, date of birth and complete address. If taxpayers file a joint return, they'll only be able to access their portion of the First-Time Homebuyer Credit account information. (3) *What the tool provides* The tool will show the original amount of the credit, annual repayment amounts, total amount paid and the total balance left to be paid. Taxpayers will be able to print their account page to share with their tax preparer and keep for their records. (4) *How to repay the credit* To repay the First-Time Homebuyer Credit, add the amount the taxpayer has to repay to any other tax owed on a federal tax return. This could result in an additional tax owed or a reduced refund. To repay the credit, taxpayers report the repayment on line 59b on Form 1040, *U.S. Individual Income Tax Return*. If a taxpayer makes an installment payment, the taxpayer does not need to attach Form 5405, *First-Time Homebuyer Credit and Repayment of the Credit*, to your tax return. However, if the taxpayer is repaying the credit because the home stopped being the taxpayer's main home, the taxpayer must attach Form 5405. **IRS Tax Tip 2012-22**.

FOREIGN ACCOUNTS. The Treasury Department and the Internal Revenue Service have announced proposed regulations for the next major phase of implementing the Foreign Account Tax Compliance Act (FATCA). Enacted by Congress in 2010, the law targets non-compliance by U.S. taxpayers using foreign accounts. The regulations lay out a step-by-step process for U.S. account identification, information reporting, and withholding requirements for foreign financial institutions (FFIs), other foreign entities, and U.S. withholding agents. The proposed regulations implement FATCA's obligations in stages to minimize burdens and costs consistent with achieving the statute's compliance objectives. The rules and implementation schedule are also adjusted to allow time for resolving local law limitations to which some FFIs may be subject. FATCA was enacted in 2010 by Congress as part of the Hiring Incentives to Restore Employment (HIRE) Act. FATCA requires FFIs to

report to the IRS information about financial accounts held by U.S. taxpayers, or by foreign entities in which U.S. taxpayers hold a substantial ownership interest. Neil Harl will publish an article on the proposed regulations in a future issue of the *Digest*. **IR-2012-15 See Prop Treas. Reg, NPRM REG 121647-10**.

IRA. The taxpayer, age 79, owned two certificates of deposit in two IRAs. The CDs matured and the taxpayer was issued checks for the balance of each. The taxpayer placed the checks in a safe deposit box. The taxpayer presented evidence that the taxpayer suffered severe heart and vision problems requiring surgery and extended recoveries which prevented the taxpayer from timely rolling over the checks to a new IRA. The IRS granted the taxpayer a waiver of the 60-day rollover requirement. **Ltr. Rul. 201204024, Nov. 2, 2011**.

The taxpayer received a distribution from a pension plan and asked a tax advisor whether the distribution could be rolled over to an IRA. Although the rollover was more than 60 days after the distribution, the tax advisor told the taxpayer that the distribution was eligible for a tax-free rollover. The taxpayer did not receive any rollover information from the former employer or the pension plan manager. The IRS waived the 60-day rollover requirement to allow the distribution to be excluded from taxable income. **Ltr. Rul. 201204025, Nov. 1, 2011**.

The taxpayer was employed and participated in a retirement plan provided by the employer. The taxpayer contributed $5000 to an IRA owned by the taxpayer and in which the taxpayer's spouse was the beneficiary. The taxpayer and spouse had adjusted gross income, after reduction for the IRA contribution, of $114,000. The court noted that I.R.C. § 219(g) phases out the IRA deduction, starting at $85,000 and fully phases out at $105,000. Because the taxpayer and spouse had AGI of more than $105,000, no deduction was allowed for the IRA contribution. **Xu v. Comm'r, T.C. Summary Op. 2012-11**.

PARSONAGE ALLOWANCE. The taxpayer was an ordained minister and received a parsonage allowance for two residences. The taxpayer excluded the parsonage allowance from income under I.R.C. § 107(2) but the IRS assessed a deficiency based on disallowance of the exclusion for the second residence. I.R.C. § 107 provides that for "a minister of the gospel, gross income does not include … (2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home." The Tax Court, in a divided opinion, held that "a home" included all residences of the minister. However, on appeal the appellate court reversed, holding that "a home" was singular and allowed the exclusion for only one residence. **Driscoll v. Comm'r, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,187 (11th Cir. 2012), *rev'g and rem'g*, 135 T.C. 557 (2010)**.

PENSION PLANS. For plans beginning in February 2012 for purposes of determining the full funding limitation under I.R.C. § 412(c)(7), the 30-year Treasury securities annual interest rate for this period is 3.03 percent, the corporate bond weighted average is 5.67 percent, and the 90 percent to 100 percent permissible range is 5.10 percent to 5.67 percent. **Notice 2012-16, I.R.B. 2012-9**.

RETURNS. The IRS has published information for taxpayer who do not receive a W-2 form from their employer. (1) *Contact your employer* If a taxpayer does not receive a W-2, the taxpayer should first contact the employer to inquire if and when the W-2 was mailed. If it was mailed, it may have been returned to the employer because of an incorrect or incomplete address. After contacting the employer, allow a reasonable amount of time for them to resend or issue the W-2. (2) *Contact the IRS* If the taxpayer does not receive a W-2 by Feb. 14, contact the IRS for assistance at 800-829-1040. The taxpayer must provide a name, address, Social Security number, phone number and have the following information:

- Employer's name, address and phone number.
- Dates of employment.
- An estimate of the wages earned, the federal income tax withheld, and when the taxpayer worked for that employer during 2011. The estimate should be based on year-to-date information from a final pay stub or leave-and-earnings statement, if possible. (3) *File your return* Taxpayers still must file a tax return or request an extension to file by April 17, 2012, even if the taxpayers do not receive a Form W-2. If a taxpayer has not received a Form W-2 in time to file a return by the due date, and has completed steps 1 and 2, the taxpayer may use Form 4852, *Substitute for Form W-2, Wage and Tax Statement*. Attach Form 4852 to the return, estimating income and withholding taxes as accurately as possible. There may be a delay in any refund due while the information is verified. (4) *File a Form 1040X* On occasion, a taxpayer may receive a missing W-2 after filing a return using Form 4852, and the information may be different from what was reported on the return. If this happens, taxpayers must amend their return by filing a Form 1040X, Amended U.S. Individual Income Tax Return. **IRS Tax Tip 2012-20**.

The IRS has issued a new form taxpayers must use to report most capital gains and losses from transactions relating to investment property. In previous years, these transactions would have been reported on your IRS Schedule D or D-1, but for tax year 2011, use Form 8949, *Sales and Other Dispositions of Capital Assets*. (1) Short-term capital gains or losses (assets held for one year or less) are now reported on Part I of Form 8949. (2) Long-term capital gains or losses (assets held for more than one year) are now reported on Part II of Form 8949. (3) Fill out Form 8949 before you fill out line 1, 2, 3, 8, 9 or 10 of Schedule D. (4) Most property owned and used for personal purposes, pleasure or investment is a capital asset. Use Form 8949 to report the sale or exchange of a capital asset not reported on another form or schedule (such as Form 6252 or 8824). (5) At the top of each Form 8949, check box A, B or C, based on what is indicated in box 3 of the Form 1099-B or substitute statement.

- Check box A if your broker reported the transaction to you and the basis of the securities sold also was reported to the IRS
- Check box B if the transaction was reported to you but box 3 of the Form 1099-B is blank or your statement says the basis was not reported to the IRS.
- Check box C for all other transactions. (6) If there are many transactions, use as many Forms 8949 as necessary to report all of them, but make sure that each Form 8949 includes only the type of transactions described in the text for the box checked (A, B or C). (7) The reporting of certain transactions has changed. If

a taxpayer has to adjust the gain or loss, the taxpayer may have to enter a code in column (b) and an adjustment in column (g). For details, see the 2011 Instructions for Schedule D (and Form 8949). (8) For 2011 transactions, Schedule D-1 is no longer in use. Form 8949 replaces it. **IRS Tax Tip 2012-28**.

S CORPORATION

SECOND CLASS OF STOCK. The taxpayer was a family-owned S corporation. The taxpayer agreed to participate in a scheme under which the taxpayer donated most of its non-voting stock to a charitable organization which held the stock for a few years. The stock transfer had the effect of allocating all of the corporation's income to the charity. The stock was intended to be repurchased a number of years later at a set amount, with only capital gains taxes paid on the profit. In order to protect the legitimate shareholders from the charity keeping the shares, the taxpayer issued stock warrants to the shareholders which, if exercised would dilute the stock of the charity such as to return the equity back to the shareholders. The court granted summary judgment to the IRS and held that these warrants created a second class of stock which terminated the S corporation status of the taxpayer, resulting in the corporation being taxable on the income earned during the years the stock was held by the charity. On reconsideration, the court held that the safe harbor of Treas. Reg. § 1.1361-1(l)(4)(iii) could apply, depending on whether the warrants' strike price was at least 90 percent of the fair market value of the underlying stock on the date the warrants were issued. Because the value had not yet been determined, the court held that a triable issue of fact remained and prevented granting of summary judgment at this point. **Santa Clara Valley Housing Group, Inc. v. United States, 2012-1 U.S. Tax Cas. (CCH) ¶ 50,169 (N.D. Calif. 2012), *rev'g on reconsideration*, 2011-2 U.S. Tax Cas. (CCH) ¶ 50,637 (N.D. Calif. 2011)**.

SOCIAL SECURITY BENEFITS. The IRS has published information about taxation of social security benefits. All social security recipients should receive a Form SSA-1099 from the Social Security Administration which shows the total amount of their benefits. (1) How much – if any – of a taxpayer's social security benefits are taxable depends on total income and marital status. (2) Generally, if social security benefits were the only income for 2011, the benefits are not taxable and a taxpayer probably does not need to file a federal income tax return. (3) If a taxpayer received income from other sources, the benefits will not be taxed unless the taxpayer's modified adjusted gross income is more than the base amount for the taxpayer's filing status (see below). (4) A taxpayer's taxable benefits and modified adjusted gross income are figured on a worksheet in the Form 1040A or Form 1040 Instruction booklet. (5) A taxpayer can do the following quick computation to determine whether some of the benefits may be taxable: First, add one-half of the total social security benefits received to all other income, including any tax-exempt interest and other exclusions from income. Then, compare this total to the base amount for the taxpayer's filing status. If the total is more than the taxpayer's base amount, some of the benefits may be taxable. (6) The 2011 base amounts are:

- $32,000 for married couples filing jointly.
- $25,000 for single, head of household, qualifying widow/widower with a dependent child, or married individuals filing separately who did not live with their spouse at any time during the year.
- $0 for married persons filing separately who lived together during the year.

(7) For additional information on the taxability of social security benefits, see IRS Publication 915, *Social Security and Equivalent Railroad Retirement Benefits*. **IRS TAX TIP 2012-26**.

TAXABLE INCOME ITEMS. The IRS has published a non-exclusive list of non-taxable items:

- Adoption expense reimbursements for qualifying expenses
- Child support payments
- Gifts, bequests and inheritances
- Workers' compensation benefits (some exceptions may apply; see Publication 525, *Taxable and Nontaxable Income*)
- Meals and lodging for the convenience of the taxpayer's employer
- Compensatory damages awarded for physical injury or physical sickness
- Welfare benefits
- Cash rebates from a dealer or manufacturer

Some income may be taxable under certain circumstances, but not taxable in other situations. Examples of items that may or may not be included in taxable income are:

- *Life insurance* If a taxpayer surrenders a life insurance policy for cash, the taxpayer must include in income any proceeds that are more than the cost of the life insurance policy. Life insurance proceeds, which were paid to a taxpayer because of the insured person's death, are generally not taxable unless the policy was turned over to the taxpayer for a price.
- *Scholarship or fellowship grant* If the taxpayer is a candidate for a degree, the taxpayer can exclude from income amounts the taxpayer received as a qualified scholarship or fellowship. Amounts used for room and board do not qualify for the exclusion.
- *Non-cash income* Taxable income may be in a form other than cash. One example of this is bartering, which is an exchange of property or services. The fair market value of goods and services exchanged may be fully taxable and must be included as income on Form 1040 of both parties. **IRS Tax Tip 2012-25**.

WORK OPPORTUNITY TAX CREDIT. The IRS has released the guidance and forms that employers can use to claim the expanded tax credit for hiring veterans. The IRS also announced that employers will have more time to file the required certification form for employees hired on or after November 22, 2011, and before May 22, 2012. The VOW to Hire Heroes Act of 2011, enacted Nov. 21, 2011, provides an expanded Work Opportunity Tax Credit (WOTC) to businesses that hire eligible unemployed veterans and for the first time also makes the credit available to certain tax-exempt organizations The credit can be as high as $9,600 per veteran for for-profit employers or up to $6,240 for tax-exempt organizations. The amount of the credit depends on a number of factors, including the length of the veteran's unemployment before hire, hours a veteran works and the amount of first-year wages paid. Employers who hire veterans with service-related disabilities may be eligible for the maximum credit. Normally, an eligible employer must file Form 8850 with the state workforce agency within 28 days after the eligible worker begins work. But according to the new guidance, employers have

until June 19, 2012, to complete and file this newly-revised form for veterans hired on or after Nov. 22, 2011, and before May 22, 2012. The 28-day rule will again apply to eligible veterans hired on or after May 22, 2012. In *Notice 2012-13, I.R.B. 2012-9*, the IRS clarified and expanded upon 2002 guidance to facilitate employers' use of electronic signatures when gathering the Form 8850 for transmission to state workforce agencies. The guidance confirms that employers can transmit the Form 8850 electronically, and also allows employers to transmit the Form 8850 via fax, subject to the ability of the state workforce agencies to accept submissions in those formats. The IRS expects the Department of Labor to issue further guidance to the state workforce agencies providing further clarification. Businesses claim the credit on their income tax return. The credit is first figured on Form 5884 and then becomes a part of the general business credit claimed on Form 3800. This credit is also available to certain tax-exempt organizations by filing Form 5884-C. The guidance also provides instructions and a new set of forms for tax-exempt organizations to claim the credit. See also *Notice 2012-17, I.R.B. 2012-9*. **IR-2012-17**.

SECURED TRANSACTIONS

FEDERAL FARM PRODUCTS STATUTE. The plaintiff bank obtained a security interest in crops grown by a debtor. The debtor sold those crops to the defendant and failed to pay the plaintiff on the loan. The plaintiff argued that the defendant failed to protect the plaintiff's security interest by making the sales proceeds check out to the debtor and plaintiff jointly. The plaintiff sent a notice under section 1631(e) of the Food Security Act of 1985. The notice contained the following language: "The farm products described above are or may be located on (describe property and county or parish where farm products are or may be located)***." The form then provides a blank space for the information, but the information was never filled in. The notice also fails to name the county where the farm products are or may be located. Below the blank space on the forms is a check box that is marked with an "X." Next to the check box, the notice read: "The security interest also covers the described farm products wherever located and is not limited to those located on the above property." The notices also state that any check issued to the debtor must be (1) made payable both to the debtor and to the plaintiff; (2) delivered to or received by the secured party; and (3) paid. The plaintiff argued that the notice was sufficient because it substantially complied with the statutory notice. Although the court acknowledged that some courts had allowed substantial compliance, the court held that the better rule was that the statutory notice required strict compliance in the notice; therefore, the plaintiff's security interest was not protected under the Act. **State Bank of Cherry v. CGB Enterprises, Inc., 2012 Ill. App. LEXIS 5 (Ill. Ct. App. 2012)**.

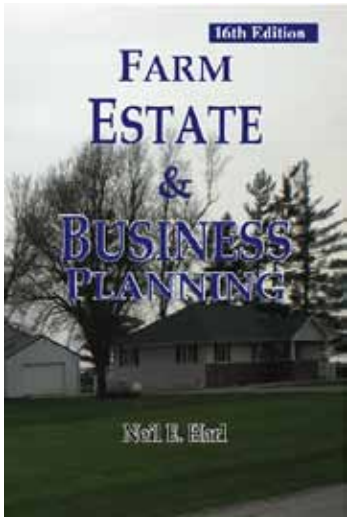
IN THE NEWS

AIRLINE MILES REWARDS. "The IRS, at least unofficially, appears to agree with certain Form 1099-MISC reporting agents that not all frequent flyer miles are excludable from a recipient's income. This position can be inferred by the IRS's response to CCH's inquiry relating to the receipt of certain 2011 Forms 1099-MISC that report as income the value of reward miles received during 2011 for opening checking or savings accounts. Although "frequent flyer miles" as originally awarded only on airline travel were easy to categorize as a nontaxable rebate of the original ticket price, use of "reward miles" and "reward points" to incentivize certain other consumer activity apparently does not automatically receive the same treatment. At least some Citibank customers reportedly have expressed surprise over receiving 2011 Forms 1099-MISC that list as income the value of miles received as an incentive to open financial accounts. Receiving the Form 1099-MISC requires them to declare the value of those miles as income on their 2011 returns, seek a correction of the Form 1099-MISC from the issuer or independently explain the issue to the IRS. 'When frequent flyer miles are provided as a premium for opening a financial account, it can be a taxable situation subject to reporting under current law,' an IRS spokesperson told CCH in investigating the latest Form 1099-MISC issue. However, the IRS spokesperson further noted that, 'if taxpayers have questions about the information they receive on a Form 1099, they should follow up with the issuer or their tax professional to resolve any questions about valuation, timing or other issues regarding the income reported.' Commenting on the recent Forms 1099-MISC sent to certain of its customers, a Citibank spokesperson explained to CCH in a written statement, 'The Internal Revenue Code (IRC) recognizes rewards as taxable income - with the exception of promotions tied to credit and debit purchases. This recognition by the IRC is disclosed to customers prior to their election to participate in the promotion. Citibank is committed to providing our customers with exceptional service and a banking experience that is simple, transparent and value driven.' *CCH Comment*. There is no blanket rule that reward miles are not income, although consumers may have assumed they are never taxable due to their more limited use in the past. Treatment of reward miles currently depends upon whether they are received as a price reduction or rebate, as an incidental benefit to using a credit card for business travel or as inducement. In any case, the issue only arises for most practical purposes if a Form 1099-MISC is filed, which is required only if all reportable payments exceed $600 for the tax year. The receipt of miles or other reward points for credit card purchases generally has not been subject to information reporting in most situations due to the administrative exception first carved out by the IRS in *Announcement 2002-18, 2002-1 C.B. 621*, as well as an earlier letter ruling. *Announcement 2002-18* indicated in effect that the IRS would not view employees as realizing income when they receive frequent flyer miles through use of their credit cards to charge travel expenses properly reimbursed by their employers. IRS *Letter Ruling 199920031* earlier held that the receipt of frequent flyer miles as an inducement to purchase should be treated as a rebate. In effect, the value reward miles lowers the cost of the product being purchased with a credit or debit card, rather than generating income. No formal IRS guidance has been published, however, that directly addresses the situation in which reward miles are given not for the purchase of a particular item but as an incentive to open an account. **George Jones, CCH News Staff, Federal Tax Day, (Jan. 30, 2012)**.

Agricultural Law Press
127 Young Rd., Kelso, WA 98626

New 16th EDITION

FARM ESTATE & BUSINESS PLANNING



Soft cover, 8.25 x 5.5 inches, 454 pages
Published May 2011

The Agricultural Law Press is honored to publish the completely revised and updated 16th Edition of Dr. Neil E. Harl's excellent guide for farmers and ranchers who want to make the most of the state and federal income and estate tax laws to assure the least expensive and most efficient transfer of their estates to their children and heirs. This book contains detailed advice on assuring worry-free retirement years, using wills, trusts, insurance and outside investments as estate planning tools, ways to save on estate settlement costs, and an approach to setting up a plan that will eliminate arguments and friction in the family. Federal estate taxation has undergone great changes in recent years and this book sorts out these changes for you in a concise manner. FEBP also includes discussion of employment taxes, formation and advantages of use of business entities, federal farm payments, state laws on corporate ownership of farm land, federal gift tax law, annuities, installment obligations, charitable deductions, all with an eye to the least expensive and most efficient transfer of the farm to heirs.

Written with minimum legal jargon and numerous examples, this book is suitable for all levels of people associated with farms and ranches, from farm and ranch families to lenders and farm managers. Some lawyers and accountants circulate the book to clients as an early step in the planning process. We invite you to begin your farm and ranch estate and business planning with this book and help save your hard-earned assets for your children.

*Free shipping and handling when check or credit card number attached to order.

*Return in 10 days for full refund if not satisfied.

* Quantity discounts available for 10 or more books - great for handing out to clients to encourage estate planning.

ORDER FORM (or call 360-200-5666)

___ Please send me ____ copies for $35.00 each. Check enclosed for $_____

___ Please charge my credit card: __Visa __ MasterCard __Discover __Am Express #_____

_____/_____Expiration date _____ Cvv code

___ Bill me and add shipping and handling of $5.00 per book.

Name - please print or type

Street address City State Zip

Phone E-mail - if you want to be informed of updates/corrections

Send to: Agricultural Law Press, 127 Young Rd., Kelso, WA 98626